



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/361,542	07/27/1999	DOUGLAS JOSEPH DOBROZSI	7247M	5652

27752 7590 07/15/2005

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT	PAPER NUMBER
----------	--------------

1615

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/361,542

Applicant(s)

DOBROZSI, DOUGLAS JOSEPH

Examiner

Lakshmi S. Channavajjala

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36, 38, 41-44, 46 and 48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36, 38, 41-44, 46 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt of amendment, remarks and terminal disclaimer all dated 4-15-05 is acknowledged.

Claims 36, 38, 41-44, 46 and 48 are pending.

The following rejection has been maintained:

Claim Rejections - 35 USC § 103

Claims 36, 38, 41-44, 46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,589,160 ('160) OR over US 5,658,553 ('553), both to Rice et al.

'160 and '553 teach dentifrice compositions such as oral gels, comprising precipitated silica or silica gel, having a particle size in the range of 5 microns to 11 microns (col. 3). Examples I-III of the above patents teach silica in the same amounts as claimed. The composition further comprises pharmaceutically acceptable carriers such as a surfactant, chelating agents such as sodium citrate, preferably citric acid (col. 6, lines 58-67), in the same amounts as claimed in the instant. The composition of '160 and '553 is used for preventing tooth stain or removing plaque and applied as toothpaste, thus meets the claimed limitations "oral, muco-retentive". The above patents also teach addition of flavoring agents (col. 7, lines 60-67) that read on the claimed sensory agents. While neither reference require citric acid as an essential ingredient and only teach as an optional ingredient, both references teach citric acid and other chelating agents for their efficiency in removing plaque. Accordingly, including a chelating agent, such as citric acid or sodium citrate in the composition of '160 or '553, containing silicon dioxide and an active agent, with an expectation to increase the

Art Unit: 1615

plaque removing effect of the above dentifrice compositions would have been within the scope of a skilled artisan.

Response to Arguments

Applicant's arguments filed 4-15-02005 have been fully considered but they are not persuasive.

Applicants argue that claims 39 and 45 have been canceled, thus obviating the rejection applied. With respect to the rejection applied to other pending claims, applicants argue that Rice patents '160 and '533 disclose oral compositions such as gels, toothpastes, powders etc., comprising precipitated silica. It is also argued that the Rice documents fail to disclose oral, muco-retentive, liquid, and pharmaceuticals, comprising colloidal particles of the claimed size and instead teaches dentifrice with silica precipitates of mean particle size. Applicants also argue that the applied reference fails to teach muco-retentive properties as claimed and instead teaches composition for preventing and remove plaque and tooth stain. Applicants' arguments are persuasive because instant specification states that the acceptable forms of silicone dioxide include gels precipitated silicon dioxide etc (page 8, lines 32-35) and accordingly, the silica precipitate of Rice reads on the claimed component. With respect to the claimed particle size, Rice teaches a suitable range is between 5 to 11 microns, but nowhere states that the particle size below 5 microns is not suitable. Further, while instant specification states that colloidal particles include a particle size of less than 10 microns that includes the particle sizes taught by Rice references, applicants have not established any criticality with respect to the claimed particle sizes of less than micron. Furthermore,

Art Unit: 1615

absent evidence to the contrary, the composition of Rice possesses the property of retention of mucosal membranes because the composition is directed to oral application.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala
Examiner
Art Unit 1615

June 27, 2005

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600